IN THE HIGH COURT OF UTTARTANCHAL
AT NAINITAL

Criminal Misc. Application No. 583 of 2005

Vijendra Kumar Chaudhry
S/o Aman Singh
Rajpur Road, P.S. Kotwali
Dehradun, District Dehradun … Applicant.

Versus

1 State of Uttaranchal
2. Sayed Khand S/o Bashir Ahmad
3. Tanvir Khan S/o Sayed Khan
4. Smt. Parveen Khan W/o Sayed Khan
All R/o 108 Nashvilla Road
P.S. Kotwali Dehradun
District Dehradun .. Opp. Parties

Hon'ble B.C. Kandpal, J

By way of this petition a relief has been sought by the petitioner for seeking a direction to the S.D.M. D., Dehradun for deciding the matter within a period of one month.

Brief facts giving rise to this petition are that the petitioner is a resident of 108/1 Nashvilla Road, (Rajpur Road), Dehradun which is a *Pacca road,* that goes in front of Saint Joseph Academy. There is a shop in the name and style of "*Sayed Auto Repairs"* and the owner of that shop is one Tanvir Khan. This shop has created a great problem of the pollution on a very busy road. The habitant of the locality have requested so many times to the owner of the shop not to pollute the atmosphere but all in vain. Therefore, the petitioner had to file an application before the court of S.D.M. against the respondents No. 2 to 4 under Section 133 Cr.P.C.

The S.D.M., Dehradun directed the In-charge P.S. Kotwali to submit the report and the report from In-charge, P.S. Kotwali was submitted before the S.D.M. Thereafter, the S.D.M. issued notice against the opposite parties No. 2 to 4 under Section 133 (1) Cr.P.C. and directed

the police to remove the unauthorized and illegal work of the opposite parties No. 2 to 4 on the public way vide order dated 09.06.2005. It is averred in the petition that the opposite parties No. 2 to 4 have not stopped their unauthorized and illegal work of repairing work in the public road an the matter is subjudice before the court of S.D.M. Therefore, this misc. application is filed praying that the S.D.M. concerned be directed to decide the case at the earliest.

Heard learned counsel for the petitioner and perused the record.

The matter under Section 133 Cr.P.C. deals with public nuisances and this Section provides a speedy and efficacious remedy in case of urgency where public interest and public health is concerned. The idea in introducing this Section is that if immediate steps are not taken, irreparable injury will be caused. The nature of the case is as such which requires immediate attention of the authorities concerned and the authority concerned by whom the matter is to be adjudicated has to take immediate measure in deciding the controversy finally.

I therefore, think it just and proper to direct the S.D.M., Dehradun for deciding the matter after giving a reasonable opportunity to the either side for adducing their evidence preferable within a period of 45 days.

The petition is accordingly disposed of. The S.D.M., Dehradun is directed to decide the matter in controversy preferably within a period of 45 days.

(B.C. Kandpal, J.)

06.09.2005
ASWAL